

REMARKS

In response to the Official Action mailed December 27, 1999, amendments are made to the specification to correct the informalities noted by the Examiner in paragraphs 2-3 of the Official Action. Additionally, claims 1-7 are extensively amended to avoid alleged indefiniteness under 35 U.S.C. 112, second paragraph. Claims 1-7 define the invention over the applied Nikolich patent and the remaining art of record. To provide Applicant with the scope of protection to which he is deemed entitled, new independent claim 8 is newly added. The case is in condition for allowance.

Independent claim 1 is directed to a device for fixing a plug in a support (100), comprising a piston adapted to propelled by compressed gas, and a cylinder in which the piston is mounted. A combustion chamber is formed between the piston and cylinder head and a combustion chamber sleeve is movably mounted to close the chamber at a rear thereof through contact with the cylinder head. A plug guide (8) acting as a probe for placement in abutment with the support (100) is provided and includes a pushing surface (30). The sleeve (4) supports an abutment surface (29). Surfaces (30, 29) are arranged to be fixedly attached to each other during rearward translational movement of the sleeve when the plug guide is placed into abutment with the support (100). This rearward displacement of the sleeve closes the combustion chamber. The surfaces (30, 29) detach from each other upon recoil of the device in reaction to firing in order to ensure that the plug guide is kept in abutment against the support during the recoil.

As amended, claim 1 now further recites that the plug guide (8) is in coaxial alignment with one of the plugs in a firing position to thereby guide the plug upon firing.

Contrary to the Nikolich patent, claim 1 contains clear claim recitations requiring the plug to function as a guide for the plugs being fired. By virtue of the unique claimed construction, the plug guide performs this unique guiding function while remaining on the work piece even as the tool recoils.

In contrast, in the combustion tool disclosed in Nikolich, assigned to the Assignee of the present invention, the work contact probe is on the outside of the nosepiece and is isolated from the rest of the tool by a spring. Thus, when the tool recoils, this work contact probe will stay on the work piece. However, the work contact probe does not guide the pins or plugs because it is outside of the nosepiece.

In view of the foregoing remarks, claim 1 is neither anticipated nor obvious over Nikolich.

Claims 2-7 are considered allowable for the reasons advanced for claim 1 from which they depend. These claims are further considered allowable on their own merits as they recite other features of the invention neither disclosed, taught nor suggested by the applied Nikolich patent.

To provide Applicant with the scope of protection to which he is deemed entitled, independent claim 8 is newly added. Claim 8 is, in certain respects, similar to claim 1 in the sense that claim 8 is also directed to a guide adapted to both maintain contact with a material surface while at the same time serving to guide the member being fired through the surface into the material. In view of the similarities with claim 1, claim 8 is patentable over the Nikolich patent.

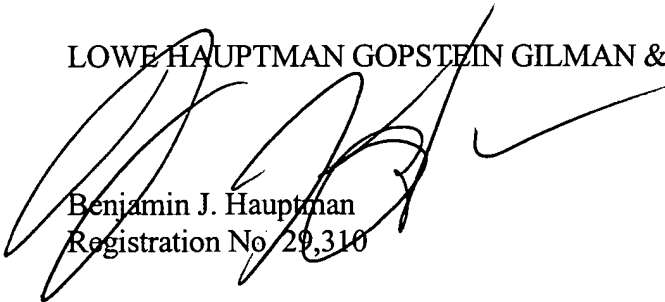
In view of the foregoing amendment and remarks, this application is deemed to be in condition for allowance. Accordingly, an early notification of allowance is courteously solicited.

Serial No. 09/237,836

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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